



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable O. J. S. Ellingson
General Manager
Texas Prison System
Huntsville, Texas

Dear Sir:

Opinion No. 0-1168
Re: From what fund may the Texas
Prison System legally pay
boiler inspection costs?

This will acknowledge receipt of your letter of
February 24, 1940, wherein you request the opinion of this
department upon the following matter:

You desire to be informed as to the fund from
which you may legally pay inspection costs, that is, fees
and expenses incident to the inspection of your boilers and
other machinery.

Acts 1937, Forty-fifth Legislature, page 893,
chapter 436, as amended by Acts 1939, Forty-sixth Legisla-
ture, House Bill 419 (Vernon's Civil Statutes, Article
5221c), provides for the inspection of steam boilers, the
administration of the Act being under the jurisdiction of
the Commissioner of the Bureau of Labor Statistics of the
State of Texas, the Act providing for the inspection to be
had by the inspector of boilers or any deputy inspector, or
by any qualified boiler inspector employed by any county,
city and county, or city, or any insurance company, provided
that such persons making inspections (other than the inspec-
tor of boilers or deputy inspectors regularly employed by
the Commissioner) shall first obtain from the Commissioner
a commission as an inspector showing his qualifications to
make such inspections.

Item 12 of your Maintenance and Miscellaneous
Appropriation, Senate Bill 427, Acts of the Forty-sixth Leg-
islature, reads as follows:

"General support and maintenance; also in-
cludes transportation, re-capture, contingent ex-
penses and liability insurance premiums\$375,000.00."

We find no specifically itemized appropriation for inspection costs. It is, therefore, the opinion of this department that the items of expense incurred by the Texas Prison System in the employment of authorized persons to inspect the boilers of the system may be paid out of the general support and maintenance or contingent expense item of appropriation quoted above.

If, in the opinion of the Texas Prison System, it becomes necessary to have an inspection made of machinery other than that which the law above referred to requires to be inspected under the jurisdiction of the Commissioner of the Bureau of Labor Statistics, the expenses of such inspection in our opinion, likewise may be paid out of the Maintenance and Miscellaneous Appropriation above referred to.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/R.W. Fairchild
R.W. Fairchild
Assistant

RWF:LM:wc

APPROVED March 22, 1940
s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman